

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 26, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 99od-126

OAHU

Withdrawal from Governor's Executive Order No. 1760 and Reset Aside to
Department of Land and Natural Resources, Division of Aquatic Resources for
Pupukea Marine Life Conservation District, Pupukea, Koolauloa, Oahu, Tax Map
Key: (1) 5-9-04:19 portion and seaward

CONTROLLING AGENCY (of subject executive order):

City & County of Honolulu

APPLICANT (requesting set aside):

Department of Land and Natural Resources, Division of Aquatic Resources

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Pupukea, Koolauloa, Oahu, identified by Tax
Map Key: (1) 5-9-004:019 portion and seaward, as shown on the attached map labeled
Exhibit A.

AREA:

29.500 acres, more or less, to be determined by the Department of Accounting and
General Services, Survey Division.

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: P-1 Preservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Governor's Executive Order No. 1760 setting aside 16.700 acres to the City & County of Honolulu for Pupukea Beach Park purposes.

PURPOSE OF SET ASIDE:

Pupukea Marine Life Conservation District Purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

In 1956, GEO 1760 covering an area of about 16.700 acres was set aside to the City & County of Honolulu (City) for Pupukea Beach Park Purposes. In 1983, Division of Aquatic Resources (DAR) established the Pupukea Marine Life Conservation District (MLCD), which is immediately seaward of the beach park area. A copy of the map showing the respective areas is attached as Exhibit B.

At the time of the MLCD's establishment, there appears to have been a general consensus to include the tidepool area known as the Old Quarry of the beach park into the MLCD's boundary. Due to some beliefs around that time that the tidepool area was owned by the

City, the inclusion of the tidepool area into the MLCD did not become a reality. DAR is interested in including these intertidal resources into DAR's administrative rules for MLCD. According to the file, there were some correspondences indicating that the City was agreeable to the administrative transfer.

Upon approval of the subject request, the withdrawn area (about 4,500 acres) and the adjacent 25 acres under the MLCD will be set aside to DAR for Pupukea Marine Life Conservation District purposes.

Staff believes that the proposed use is the highest and best uses, and fully utilizes the requested lands.

State Historic Preservation Division, Division of Forestry & Wildlife, Office of Hawaiian Affairs, Department of Hawaiian Home Lands, Department of Parks and Recreation, and Department of Facility Maintenance have no objections/comments on the request.

Department of Health, Office of Conservation and Coastal Lands, Commission on Water Resource Management, and Department of Planning and Permitting have not provided any response as of the suspense date.

Division of Aquatic Resources commented that it is concerned about liability issues associated with acceptance of the management responsibility for the subject area.

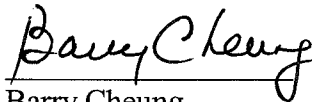
There are no other pertinent issues or concerns, and staff has no objections to the request.

RECOMMENDATION: That the Board:

1. Approve of and recommend to the Governor issuance of an executive order withdrawing 4,500 acres, more or less from the Governor's Executive Order No. 1760 and subject to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands (29.5 acres, more or less) to the Department of Land and Natural Resources, Division of Aquatic Resources under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



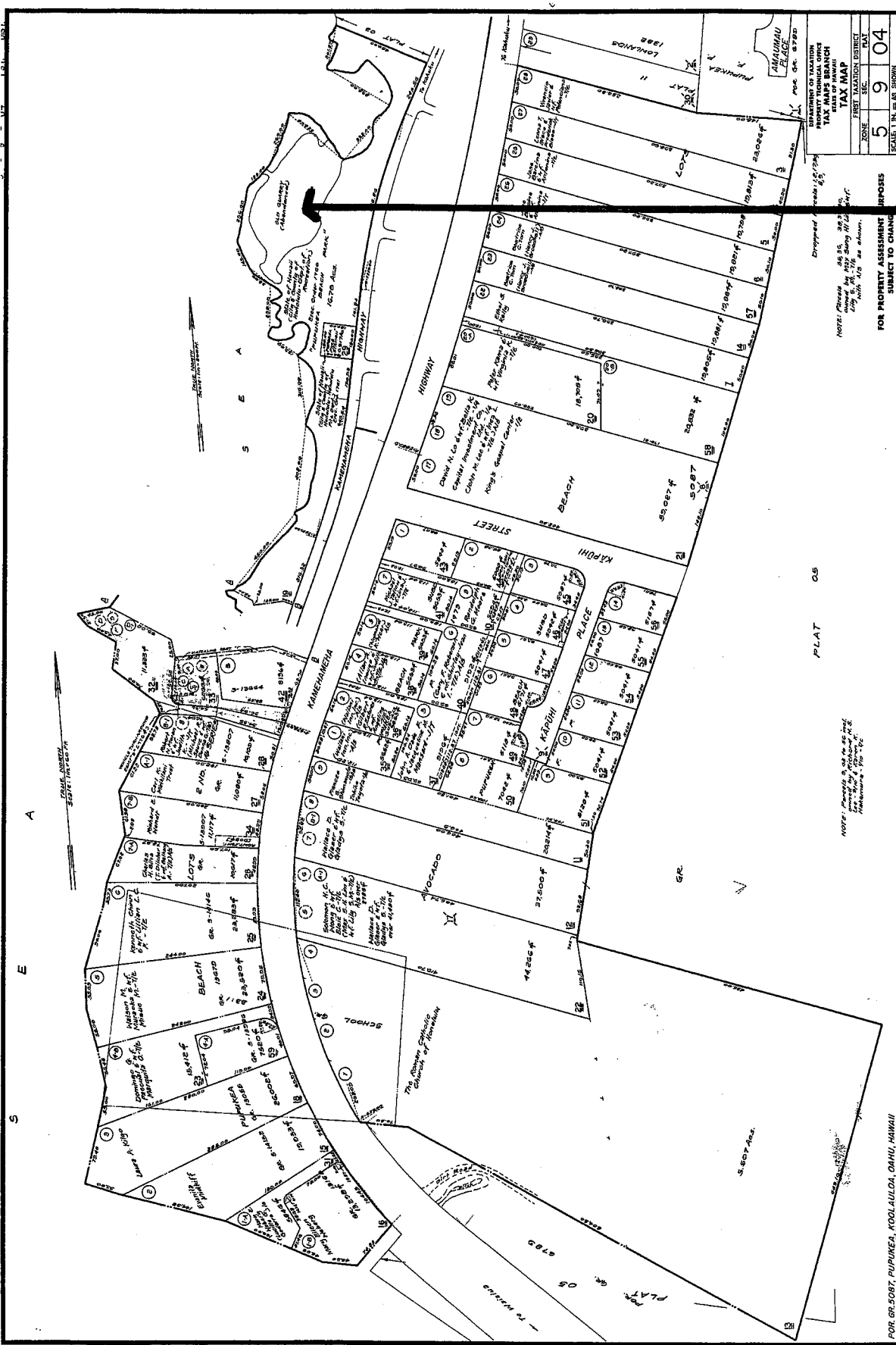
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





Subject Location

FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE

NOTE: Parcels are shown as they appear on the ground. The map is not to scale. The map is for informational purposes only. The map is not to be used for legal purposes. The map is not to be used for any other purpose.

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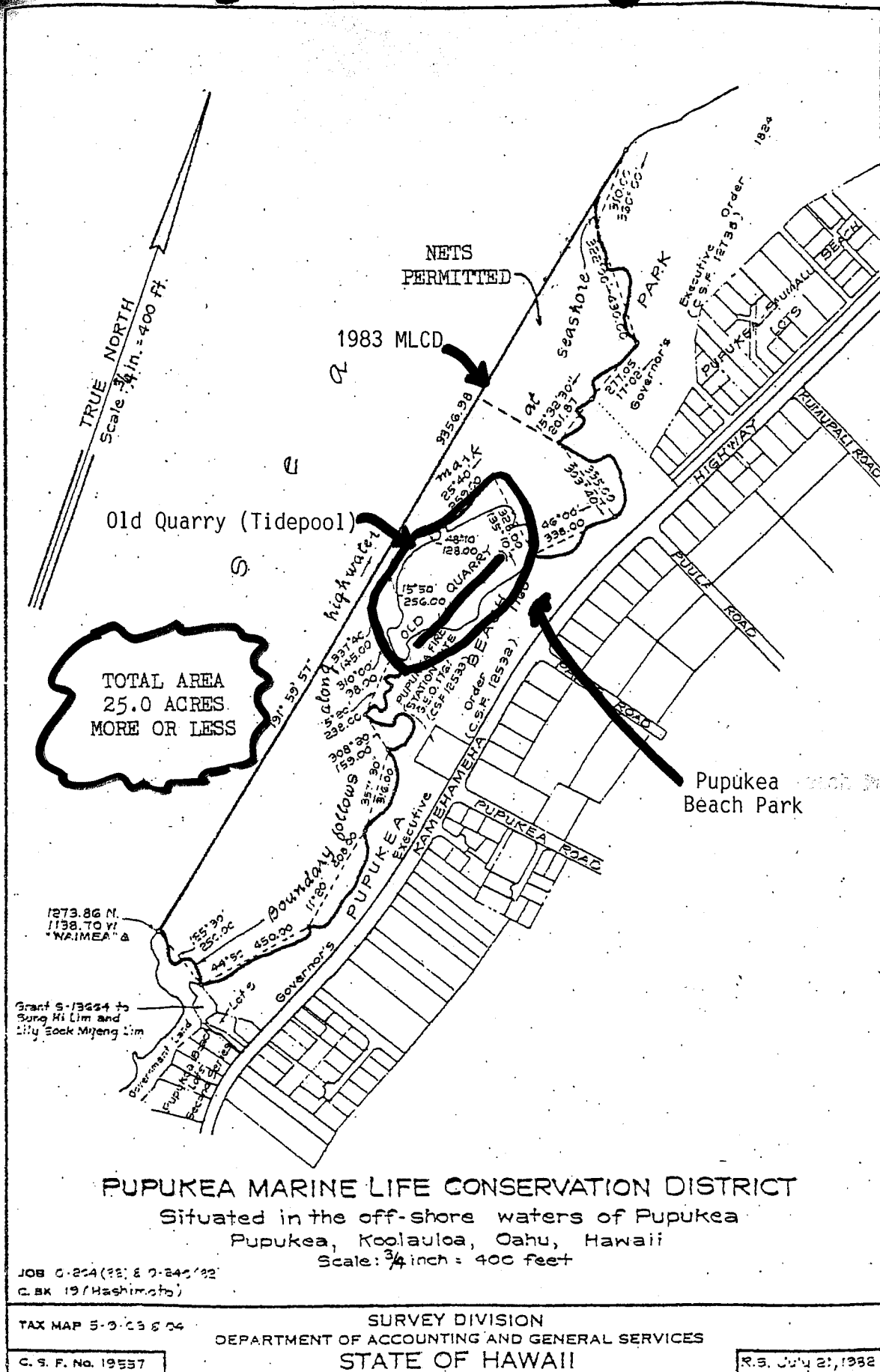
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EXHIBIT "A"



Map of the Pupukea Marine Life Conservation District, Oahu 07/21/82

EXHIBIT "B"